

APPROVED: *March 20, 1989*ATTEST: *Sharon Gran*MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 11-89

March 13, 1989

The Mayor and Council of Rockville, Maryland convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland on Monday, March 13, 1989 at 7:40 p.m.

## PRESENT

Mayor Douglas M. Duncan

Councilmember Steve Abrams (arrived at 8:10 p.m.)

Councilmember James Coyle

Councilmember Viola Hovsepian

Councilmember David Robbins

The Mayor in the Chair.

In attendance: City Manager Bruce Romer, City Attorney Paul T. Glasgow, City Clerk Sharon Gran.

## Re: City Manager's Report

1. Mr. Romer noted that City members were saddened by the death of Michael Taff on March 13, 1989. The Mayor and Council expressed their sorrow over Mr. Taff's death. Mrs. Hovsepian stated that she had appointed Mr. Taff to the Human Rights Commission and he had served the City very well.

2. The new Assistant City Manager, Rick Kuckkahn, assumed his official duties today.

3. On Monday, March 20, 1989, Chief of Police Treschuk begins his duties and will be sworn in at 6:15 p.m. on that date.

4. On Monday, March 20, 1989, at 6:30 p.m., a reception will be held in the atrium for Norman Bellingham followed by a formal recognition at the meeting.

5. The new Affirmative Action Plan is being transmitted to the Mayor and Council. Mr. Romer noted that staff listened very closely to input from individuals

and community groups in developing this plan. The staff recommends that the labor market be determined by the residency of all applicants for City employment. The draft plan is also being sent to those who previously expressed an interest indicating the scheduled adoption date of April 10, 1989 and requesting any comments or additional information concerning the plan.

Councilmember Coyle noted that those groups interested in the Affirmative Action Plan may also be interested in working with the City on the census.

6. Mr. Romer asked the Mayor and Council if they concurred in adding the budget worksessions to the agenda.

7. Mr. Romer reported that a new car wash on Rockville Pike is causing serious traffic problems. The City is taking a proactive role and working with the owner to resolve this problem.

8. The Maryland Human Relations Commission has administratively closed the action brought by Mr. Johnson, a former City employee, with no finding against the City.

Re: Presentation to Mayor and Council  
by Girl Scout Service Unit #2 in  
Rockville.

Marcie Prettyman from Senior Troop #2800 gave a short presentation on the many volunteer services provided by the girl scouts in helping the community. Mayor Duncan was re-registered as a member of the Girl Scouts of the U.S.A. and thanked the scouts for all they are doing. Representatives from Daisy, Brownie, Cadet, Junior and Senior Troops passed out girl scout cookies to the Mayor, Council and audience.

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Re: Recognition of Miss Junior  
Maryland, Amanda Suddueth.

The Mayor and Council presented four-year old Amanda Suddueth with a certificate in recognition of being chosen Miss Junior Maryland 1989 and representing the State of Maryland in the Miss Junior America pageant to be held in Orlando, Florida.

Re: Citizens' Forum

At this time, Mayor Duncan opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Mrs. Ruth Loevinger, 12 Lakeside Overlook, expressed dissatisfaction with the current election forms and absentee balloting and noted that a meeting was held in December, 1987, with the Board of Supervisors of Elections, candidates and their treasurers to discuss these concerns. Mrs. Loevinger indicated that she is seeking assurances that the Board of Supervisors of Elections is working on revising and clarifying this process before the next election.

Mayor Duncan indicated that the Board of Supervisors of Elections has taken these items under consideration in preparing legislative changes to be forwarded to the Mayor and Council. The City Attorney confirmed that a worksession was in order in April to review the proposed changes.

2. Arlene Simons, 708 Carr Avenue, President of West End Citizens' Association, addressed the issue of special assessment practices and shared the Association's discussions regarding criteria to be considered in assessing special improvements.

At the Mayor's request, a copy of the staff memo on this subject was made available to her.

3. Mansfield Kaseman, 704 Carter Avenue, Executive Director of Community Ministries of Rockville, shared some experiences from his eight-month sabbatical. He suggested that a sabbatical clause be added to the City's benefit package.

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Re: Approval of Minutes

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed by a vote of 5-0, the minutes of meeting #6-89 (February 6, 1989) were approved, as amended.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed by a vote of 5-0, the minutes of Meeting #8-89 (February 21, 1989) were approved.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed by a vote of 5-0, the minutes of Meeting #9-89 (February 27, 1989) were approved, as amended.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed by a vote of 5-0, the minutes of Meeting #10-89 (February 28, 1989) were approved.

Re: Reappointment of William Meyer to  
the Traffic and Transportation  
Commission

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the Mayor and Council reappointed William Meyer to the Traffic and Transportation Commission for a two-year term.

Re: Adoption of resolution authorizing  
the Mayor to sign a Disposition  
and Development Agreement By and  
Between the Mayor and Council of  
Rockville and Cornelius M. Whalen  
for the sale of the Courthouse  
Square Site for \$3,800,000.

Resolution No. 4-89

C. M. Whalen has proposed to purchase the 2.3 acre Courthouse Square Site for \$3,800,000 in order to develop it in accordance with the Adopted and Approved Town Center Plan. In accordance with the City Charter, a public hearing was held on the proposed Disposition and Development Agreement on February 28, 1989.

Councilmember Abrams noted that the City Attorney had been requested to confer with Mr. Whalen and to add a proviso in the agreement with respect to the

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Bank Building. Mr. Glasgow responded that two provisions were added to the Agreement to address the Bank Building Site (Section 3.07(b) and (c)).

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, the Mayor and Council adopted Resolution No. 4-89, the full text of which can be found in Resolution Book No. 9 of the Mayor and Council.

The Agreement was signed by Mr. Whalen and Mayor Duncan, and a deposit check in the amount of \$200,000 was transmitted to the Director of Finance.

Re: Establish voluntary rent increase guideline for 1989-1990.

In June 1987, the Mayor and Council enacted Chapter 26A, Section 1-102 of the "Laws of Rockville" which established voluntary rent guidelines for apartment complexes in the City of Rockville containing eight or more units. Each year the Landlord/Tenant Office evaluates current rental data and recommends maximum percentage rate for rental increase to the Mayor and Council. The proposed resolution would continue the voluntary rent increase guideline at 5.1 percent, the same figure that has been established by Montgomery County for the next twelve months.

Following discussion, the Mayor and Council instructed staff to provide clarification as to the basis for the recommended rent increase guideline for the meeting of March 20.

Re: Award of Bid No. 81-89, Engineering and Construction Services for Air Conditioning Improvements to the Rockville Senior Center to HVAC Precision Services, Inc. for the low bid of \$43,550.

This is the third and final phase of providing air conditioning for all Senior-use areas of the Rockville Senior Center. The project will provide for design and construction of air conditioning systems for the main building corridors plus five rooms.

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The contractor is required to provide a design for the designated air conditioning systems and construct the approved design. Warranties for all work and equipment for one year must be provided by the contractor; contractor shall provide all parts and labor, at no cost to the City, for any repairs or adjustments during the warranty period.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Bid No. 81-89, Engineering and Construction Services for Air Conditioning Improvements to the Rockville Senior Center was awarded to HVAC Precision Services, Inc. for the low bid of \$43,550.

Re: Award of Bid No. 57-89 for two 5-Gang Lightweight Fairway Mowers to G.L. Cornell Co., Gaithersburg, MD, for the amount of \$37,980.

This bid is for the purchase of two 5-Gang Lightweight Fairway Mowers to be used in fairway mowing operations at the Redgate Golf Course. The machines will be used to replace a Toro Parkmaster 7-gang unit purchased in 1973. Estimated cost of replacement with the units was \$36,000 and these funds were budgeted in the FY89 operating budget.

Proposals were sent to 30 prospective bidders and also advertised in the Blue Reports, Bid Net, and F.W. Dodge. G.L. Cornell Co. submitted the only bid received for a total of \$37,980.00 (\$18,990.00 each).

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Bid No. 57-89 for two 5-Gang Lightweight Fairway Mowers was awarded to G.L. Cornell Co., Gaithersburg, MD, for the amount of \$37,980.

Re: Award of contract, Bid No. 69-89, architectural and engineering services to complete a remodeling design and bid specification for Dogwood Park, to Vincent Chan & Associates, for the low bid amount of \$28,300.

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Dogwood Park is over 20 years old and major improvements need to be made to the City's youth sports program and the entire park for general use. Items to be designed are: irrigated ballfields, upgraded landscaping (and buffering), and related items ( i.e., dugouts, scoreboards, P.A. system, etc.). The architect will work with the master plan developed in conjunction with surrounding neighborhoods and user groups. This phase is funded by the City (FY89) at \$40,000. (6C61)

Construction is scheduled to start immediately after this year's baseball season and be completed by next year's baseball season. The displaced football program for this fall will be transferred to other fields.

The design (first phase) and construction (second phase) is funded by the State of Maryland's Program Open Space (P.O.S.) which the City has been saving over the past six years specifically for this major project

Upon motion of Councilmember Hovsepian, duly seconded and unanimously approved, Bid No. 69-89, for architectural and engineering services to complete a remodeling design and bid specification for Dogwood Park, was awarded to Vincent Chan & Associates, for the low bid amount of \$28,300.

Re: Award of Bid No. 78-89,  
Improvements to Civic Center  
Social Hall and fire suppression  
system, to Construction-  
Commercial, Inc. of Rockville for  
the low bid of \$118,700.

The Social Hall renovations include new vinyl tile floors, a coat room, wall panels in the main room and entrance foyer into restrooms. There will be handicap access into restrooms as well as handicap fixtures and general decor improvements.

Phase I (study and design) began in FY85. Phase II (construction) in FY86 was partially halted due to high bids. Installation of new ceiling lights and interior painting projects were accomplished in FY87. Renovations scheduled for

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June - September 1989 will complete Phase II. Phase III (exterior decor), which is already funded, will be bid and completed in FY90.

The fire suppression system is included in this project, but is funded under a separate CIP project. Adequate CIP funds are available to complete Phase II renovations.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Bid No. 78-89, for improvements to Civic Center Social Hall and fire suppression system, was awarded to Construction-Commercial, Inc. of Rockville for the low bid of \$118,700.

Re: Award of Bid No. 71-89, Improvements and Expansion of the back stage of the F. Scott Fitzgerald Theatre to Smith and Haines, Inc., of Rockville, MD, for a low bid amount of \$378,472.

This project is funded in part by a \$250,000 matching state grant. The total bid amount is \$128,000 over the state grant amount, of which \$37,400 would be funded from a separate CIP account for fire suppression systems at the theatre and social hall.

The back stage renovations and expansion includes the enlargement of dressing rooms, addition of a loading dock and access, multipurpose room, and piano storage room and five additional "add alternate" in priority order:

- #2 - 350 sq. ft. green room
- #3 - Handicap restroom and finished interior mill work
- #1 - Site work for sidewalk, stairway, and loading ramp pavers
- #4 - Outside screen wall decor for back of building
- #5 - Fire suppression system

Alternatives to the award of the entire project, including all five options would be as follows:

- #1 - Base bid plus add Alternatives 2 & 5 for \$343,072
- #2 - Base bid plus add Alternatives 1, 2 & 5 for \$359,672.

Additional funds to pay for the alternatives are proposed to be drawn from



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excess funds in other park projects.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Bid No. 71-89, for improvements and expansion of the back stage of the F. Scott Fitzgerald Theatre, was awarded to Smith and Haines, Inc., of Rockville, MD, for a low bid amount of \$378,472.

Re: Award of Bid No. 84-89 for Park Playground Equipment to Iron Mountain Forge Inc. of Framington, MO for the low bid amount of \$347,801.06.

This project involves the furnishing and installation of 25 new park play structures at the following locations: Bullards, Civic Center, Dogwood, Elwood Smith, Hillcrest, Horizon Hill, Isreal, Maryvale, Montrose, Monument, Potomac Woods, Rockcrest, Silver Rock, Twinbrook, Welsh, and Woottons Mill. The scope of the work encompasses the removal and disposal of old play equipment units, installation of new play structures, installation of pea gravel safety under-surfacing surrounded by border timbers and installation of new benches. All work is to be completed by August 31, 1989.

Funds for this project (#9B61) are appropriated in the FY89 Capital Improvements Program. The project budget is \$430,000. This is Phase I of a three-year CIP program to replace park play equipment Citywide.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Bid No. 84-89, for park playground equipment, was awarded to Iron Mountain Forge Inc. of Framington, MO for the low bid amount of \$347,801.06.

Re: Award of Bid No. 83-89 for Asphalt and Concrete work in various parks to HMF Paving Contractors for the low bid of \$33,111.75.

This project is to upgrade an asphalt pathway at Woottons Mill Park; to resurface three basketball courts at Monument, Montrose and the Senior Center; to

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resurface the asphalt "play area" at the Senior Center; and to construct a concrete driveway at the Lincoln Park Community Center.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Bid No. 83-89, for asphalt and concrete work, was awarded to HMF Paving Contractors for the low bid of \$33,111.75.

Re: Preliminary Review - Text  
Amendment Application T-94-89,  
Hardage Enterprises, Applicant.

The applicant owns and operates Woodfin Suites hotel on Piccard Drive. The addition of a restaurant in the hotel without prior approval has created an enforcement situation. The Board of Appeals has continued action on a special exception and variance to allow the applicant the opportunity to submit a text amendment addressing parking for restaurants in hotels.

The staff has begun a study of broader restaurant definition and use issues as part of the Zoning Ordinance up-date program. The research done by the applicant will be helpful in this project.

Section 6-603(b) of the Zoning Ordinance specifies that the Mayor and Council must conduct a preliminary review of the text amendment application before it is accepted. No action on the merits of the application were taken at this review.

Re: Adoption of Ordinance to Revise  
and Amend Ordinance No. 36-88,  
appropriating funds and levying  
taxes for FY 1989.

Ordinance No. 4-89

Each winter the City Manager submits to the Mayor and Council a revised budget ordinance incorporating any major changes to the current year budget. The changes generally fall into the following categories: 1) unanticipated expenditures: costs associated with emergency situations not anticipated at the original budget preparation; 2) Mayor and Council requests: changes to the budget

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requested by the Mayor and Council; 3) opportunistic requests: staff generated requests for additional funding where it is deemed to be in the City's best interest to initiate a program in the current fiscal year rather than delaying; 4) technical corrections: adjustments made to more accurately reflect the budget.

Councilmember Robbins asked staff if the approximate one percent adjustment is normal. Ellen Elow-Mintz, Senior Budget Analyst, noted that the adjustment was dependent upon the circumstances in a particular year such as the number of ice storms, but that one percent is actually lower than the norm.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, the Mayor and Council adopted Ordinance 4-89, the full text of which can be found in Ordinance Book No. 14 of the Mayor and Council, to revise and amend ordinance No. 36-88, appropriating funds and levying taxes for FY 1989. This ordinance incorporates major changes to the current budget year. The proposed amendments, with a net total of \$339,048, would increase the total appropriation in all funds to \$35,297,539.

Re: Adoption of ordinance to approve  
Application to Close and Abandon  
Public Way SCA-56-88, American  
Machine Tool Distributors'  
Association, Applicant.

Ordinance No. 5-89

The applicant will be undertaking site modifications at 1335 Rockville Pike in order to provide additional parking for new tenants. As part of the modifications, the service drive will be relocated to achieve a better alignment with developments north and south of the site.

The subject easement was dedicated about 20 years ago; however, the driveway was never constructed within the easement. With the construction of a relocated service drive, the existing easement will not be utilized and can be abandoned. The staff and Planning Commission recommended approval of the

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abandonment application.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, the Mayor and Council adopted Ordinance No. 5-89, the full text of which can be found in Ordinance Book No. 14 of the Mayor and Council, to Close and Abandon Public Way SCA-56-88.

Re: Discussion and Instructions to  
Staff -- Annexation Petition X-  
105-88, Joseph A. Lynott,  
Attorney for EBH Enterprises,  
Ltd., Applicant.

This petition was submitted in accordance with provisions of Article 23A of the Annotated Code of Maryland which specifies procedures for annexation to a municipal corporation.

The petitioner also filed, for concurrent consideration, an exploratory application for development of the subject property and the 5.59 acre parcel adjacent to it for residential townhouses pursuant to the special development procedures of the Rockville Zoning Ordinance.

The property was included in two prior annexation petitions. This parcel, along with the abutting 5.59 acres, was the subject of an annexation petition in 1983. The Planning Commission and Mayor and Council found that the R-90, One-Family Detached Residential Zone, was appropriate for the property. The petitioners, however, sought O-1, Office Building zoning; the Mayor and Council therefore denied the annexation. In 1985, a similar petition was submitted with the same result. Both the staff and Planning Commission now endorse approval of the annexation and R-90 zoning the parcel.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, staff was instructed to prepare the appropriate documentation to implement the staff and Planning Commission recommendations of approval of the annexation and R-90 zoning of the parcel. Councilmember Hovsepien noted that the Mayor and Council

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had received a letter asking that the matter be expedited. Mayor Duncan noted that the Mayor and Council would act on the letter.

Re: Discussion and Instructions to Staff -- Exploratory Application for Residential Townhouse Development RTH-10-88, Joseph A. Lynott, Attorney for EBH Enterprises, Ltd., Applicant.

This proposal covers two parcels of land: one which was annexed in 1988, and one which is the subject of Annexation Petition X-105-88 being currently considered.

The applicant proposes to create a 38-unit townhouse project utilizing the Residential Townhouse Special Development Procedure of the Zoning Ordinance which is intended to provide suitable sites for townhouse development on transitional or isolated sites.

The applicant seeks exploratory stage approval for a 38-unit townhouse development on a 10.63 acre site located on the southwest side of Darnestown Road opposite Research Boulevard.

Councilmember Coyle noted that there was no mention of the requirement of sprinklers in the townhouse project and that he felt such a requirement would build in suppression and reduce the cost of fire service over time.

Councilmember Abrams asked if the Mayor and Council had authority to go beyond the normal Code requirements in an annexation petition and incorporate additional requirements as part of the exploratory application in the RTH Zone.

The Mayor stated that the document would be brought back at the April 10 meeting. Mayor Duncan further indicated that access to Emily Drive should be eliminated and access should be maintained on Route 28 at Research Boulevard.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, staff was instructed to prepare the appropriate documentation including access onto Route 28 at Research Boulevard.

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Re: Report on recommended changes in utility billing procedures.

As part of the City's new banking services contract, it has the ability to institute an automated lockbox system for the processing of utility bills. This will accomplish a major improvement in the utility billing and collection practices which will not only result in greater efficiencies and economies, but will also generate additional income through more timely investment of the City's cash. The conversion will also present opportunities to make some changes in the City's utility billing practices to include:

1. Eliminate minimum charges for water and sewer service.
2. Eliminate reinstating service based on after hours customer calls to the police dispatcher.
3. Require payment before reinstating service.
4. Institute a \$25.00 return check charge.
5. A redesigned utility bill.

Following the City Manager's presentation, Councilmember Coyle expressed his concern regarding shutting off people's utilities. Councilmember Robbins asked if there is any appeal process now where the City will not shut off services in extenuating circumstances. The Director of Finance indicated that he is not aware of any such process.

The Mayor requested that emphasis be placed on efforts before cut-off of services in order to avoid many of these issues and requested staff to provide historical data describing the magnitude of the problem, recurrent problem customers, etc. Staff will address these issues and report back to the Mayor and Council.

Re: FYI

1. Mrs. Hovsepian noted that City staff had received high praise from

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the Safeway representatives concerning the Twinbrook Safeway store redevelopment project.

2. Mayor Duncan indicated that a licensed electrologist should fall within the definition of medical practitioner and instructed staff to prepare the necessary text amendment and to broaden the definition of medical practitioner by adding any other medical practice which they deem appropriate.

3. Councilmember Abrams requested a presentation concerning the Institute for Technical Education, noting that such a project might provide useful exposure both to Montgomery College and to the City.

4. Mayor Duncan stated that the funding for Victory Housing would be available to them at the time it is needed.

5. In response to Mayor Duncan's request for a report on the Farmers' Market, Mr. Romer indicated that it would be forthcoming in approximately two weeks.

6. The Mayor and Council agreed that 1991 would be the earliest that the "First Night" concept could be implemented. Councilmember Abrams requested that MADD and SADD be included in the program.

7. Mayor Duncan asked for an update as to current status of the Ritchie Parkway project. Mr. Romer responded that he will schedule a status meeting.

Re: New Business

1. In response to Councilmember Abrams' question, the City Manager reported that he is not aware of any new information concerning Fortune Parc.

2. Councilmember Abrams suggested that it might be useful to provide written direction to Boards and Commission concerning their requirements under the Sunshine Act. The City Attorney was asked to provide such information.

3. Councilmember Abrams and Councilmember Coyle reported on the issues raised at the Annual Congressional City Conference which they had just recently

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attended.

4. Referring to the March 6 FYI item concerning 1990 census activities, Councilmember Abrams expressed hope that staff would make every effort to reach all constituency groups. Staff will be advertising in Rockville Reports for appointments to the Complete Count Committee.

5. Regarding State funding assistance for the Rockville Arts Place project, Mayor Duncan requested that staff proceed with grant application from the Main Street Improvement Grants Program.

Re: Work Session -- Special  
Assessment Practices and  
Undergrounding of Overhead  
Utilities.

This discussion was rescheduled from March 6, 1989.

In the latter part of 1988, the Mayor and Council identified the need to have a work session to review the possible development of a special assessment policy. The Mayor and Council also decided that a review of policies concerning the undergrounding of overhead utilities was in order.

The City Manager reported that the City has not followed a consistent policy with respect to special assessments over the years and that there are currently no special assessments pending at this time. He indicated that the City could continue the present practice of dealing with a project on its own merits or initiating a broad guiding policy which is difficult given the City's current posture of "redevelopment mode." Mr. Romer feels that the policy should be review on a case-by-case basis.

The City Manager recommended that a case-by-case approach to special assessments of undergrounding of overhead utilities is warranted and that the City would explore ways to lower the costs.

Following discussion, the Mayor requested that staff prepare:

- 1) List of special assessment projects in the CIP;



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- 2) List of any special assessment projects approved in the last two years;
- 3) Cost comparison of a redeveloped block along Rockville Pike (between Twinbrook Parkway and Halpine Road)-- full versus partial cost of undergrounding; also a cost comparison for a block from First Street up to Richard Montgomery Drive.

The City Attorney indicated that several years ago, a policy was adopted that there would be no new special assessments for water and sewer and he presumed the Mayor and Council would want to continue that policy. It should be a private endeavor and the developers should work the price into the costs of the development.

Re: Executive Session

There being no further new business to discuss, the Mayor and Council convened in Executive Session at 10:10 p.m. to consult with counsel and to discuss personnel matters.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 10:55 p.m. to convene again in Public Hearing at 7:30 p.m. on March 20, 1989 or at the call of the Mayor.